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6 **UNITED STATES DISTRICT COURT**
7 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

8 ALI TARHINI,) No. 2:15-cv-06131-DSF (AS)
9)
10 Plaintiff,) ***NOTE CHANGES MADE BY THE**
11) **COURT***
12 vs.)
13) STIPULATED PROTECTIVE ORDER
14 SUSAN CURDA, in her capacity as)
15 District Director of the Los Angeles)
16 District of the U.S. Citizenship and)
17 Immigration Services; U.S. Citizenship)
18 and Immigration Services,)
19 Defendants.)
20)

21 **I. A. PURPOSES AND LIMITATIONS**

22 Discovery in this action is likely to involve production of confidential,
23 proprietary, or private information subject to the confidentiality provisions of the
24 Privacy Act or for which special protection from public disclosure and from use for
25 any purpose other than prosecuting this litigation may be warranted. Accordingly,
26 the parties hereby stipulate to and petition the Court to enter the following
27 Stipulated Protective Order. The parties acknowledge that this Order does not
28 confer blanket protections on all disclosures or responses to discovery and that the
protection it affords from public disclosure and use extends only to the limited

1 information or items that are entitled to confidential treatment under the applicable
2 legal principles. The parties further acknowledge, as set forth in Section XII.C,
3 below, that this Stipulated Protective Order does not entitle them to file
4 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
5 that must be followed and the standards that will be applied when a party seeks
6 permission from the court to file material under seal.

7 **B. GOOD CAUSE STATEMENT**

8 In this litigation, Plaintiff Ali Tarhini (“Tarhini”) asks the Court, pursuant to
9 8 U.S.C. § 1421(c), to grant him citizenship after conducting a de novo review of
10 his application for naturalization, which U.S. Citizenship and Immigration Services
11 had denied. Defendants have in their possession, custody, or control Tarhini’s
12 alien file (“A-File”), which contains Tarhini’s application for naturalization and
13 other documents related to his entry in and immigration to the United States.
14 Defendants may use all or part of Plaintiff’s A-File to support their defenses in this
15 litigation. As such, Tarhini’s A-File is subject to Defendants’ disclosures under
16 Federal Rule of Civil Procedure 26. Tarhini’s A-File, however, includes
17 documents that contain identifying information relating to Tarhini and to third
18 parties not participating in this lawsuit. The Privacy Act generally limits the
19 government’s ability to disclose that information. The Court’s entry of a protective
20 order, however, permits Defendants to produce Tarhini’s A-File to Tarhini subject
21 to the terms of the protective order. 5 U.S.C. § 522a(b)(11); Fed. R. Civ. P. 26(c).
22 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
23 of disputes over confidentiality of discovery materials, to adequately protect
24 information the parties are entitled to keep confidential, to ensure that the parties
25 are permitted reasonable necessary uses of such material in preparation for and in
26 the conduct of trial, to address their handling at the end of the litigation, and serve
27 the ends of justice, a protective order for such information is justified in this
28 matter. It is the intent of the parties that information will not be designated as

1 confidential for tactical reasons and that nothing be so designated without a good
 2 faith belief that it has been maintained in a confidential, non-public manner, and
 3 there is good cause why it should not be part of the public record of this case.

4 **II. DEFINITIONS**

5 Action: *Tarhini v. Curda et al.*, No. 2:15-cv-06131-DSF-AS (C.D. Cal.).

6 A-File: The alien file numbered 076 707 641 and maintained by the
 7 Department of Homeland Security on the Plaintiff in this Action, Ali Tarhini, and
 8 any document or portion thereof.

9 Challenging Party: a Party or Non-Party that challenges the designation of
 10 information or items under this Order.

11 “CONFIDENTIAL” Information or Items: information (regardless of how it
 12 is generated, stored or maintained) or tangible things that qualify for protection
 13 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
 14 Cause Statement.

15 Counsel: Counsel of Record in the Action and Agency Counsel (as well as
 16 their support staff).

17 Defendants: The Defendants in this action.

18 Designating Party: a Party or Non-Party that designates information or items
 19 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

20 Disclosure or Discovery Material: all items or information, regardless of the
 21 medium or manner in which it is generated, stored, or maintained (including,
 22 among other things, testimony, transcripts, and tangible things), that are produced
 23 or generated in disclosures or responses to discovery in this matter.

24 Expert: a person with specialized knowledge or experience in a matter
 25 pertinent to the litigation who has been retained by a Party or its Counsel to serve
 26 as an expert witness or as a consultant in this Action.

27 Agency Counsel: attorneys who are employees of a party to this Action.
 28 Agency Counsel does not include Counsel of Record or any other outside counsel.

1 Non-Party: any natural person, partnership, corporation, association, or other
2 legal entity not named as a Party to this action.

3 Counsel of Record: attorneys and their support staff who are not employees
4 of a party to this Action but who have been retained or appointed by statute,
5 regulation, or official policy of Defendants in this Action to represent or advise a
6 party to this Action and who have appeared in this Action on behalf of that party or
7 are affiliated with a law firm or agency of the U.S. Government that has appeared
8 on behalf of that party.

9 Party: any party to this Action, including all of its officers, directors,
10 employees, consultants, retained experts, Agency Counsel, and Counsel of Record
11 (and their support staffs).

12 Producing Party: a Party or Non-Party that produces Disclosure or
13 Discovery Material in this Action.

14 Professional Vendors: persons or entities that provide litigation support
15 services (e.g., photocopying, videotaping, translating, preparing exhibits or
16 demonstrations, and organizing, storing, or retrieving data in any form or medium)
17 and their employees and subcontractors.

18 Protected Material: any portion of Tarhini's A-File that is designated as
19 "CONFIDENTIAL."

20 Receiving Party: a Party that receives Disclosure or Discovery Material from
21 a Producing Party.

22 **III. SCOPE**

23 The protections conferred by this Stipulation and Order cover not only
24 Protected Material (as defined above), but also (1) any information copied or
25 extracted from Protected Material; (2) all copies, excerpts, summaries, or
26 compilations of Protected Material; and (3) any testimony, conversations, or
27 presentations by Parties or their Counsel that might reveal Protected Material.
28

1 Any use of Protected Material at trial shall be governed by the orders of the
2 trial judge. This Order does not govern the use of Protected Material at trial.

3 **IV. DURATION**

4 Even after final disposition of this litigation, the confidentiality obligations
5 imposed by this Order shall remain in effect until a Designating Party agrees
6 otherwise in writing or a court order otherwise directs. Final disposition shall be
7 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
8 with or without prejudice; and (2) final judgment herein after the completion and
9 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
10 including the time limits for filing any motions or applications for extension of
11 time pursuant to applicable law.

12 **V. DESIGNATING PROTECTED MATERIAL**

13 **A. Exercise of Restraint and Care in Designating Material for**
14 **Protection.**

15 Each Party or Non-Party that designates information or items for protection
16 under this Order must take care to limit any such designation to specific material
17 that qualifies under the appropriate standards. The Designating Party must
18 designate for protection only those parts of material, documents, items, or oral or
19 written communications that qualify so that other portions of the material,
20 documents, items, or communications for which protection is not warranted are not
21 swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or
22 routinized designations are prohibited. Designations that are shown to be clearly
23 unjustified or that have been made for an improper purpose (e.g., to unnecessarily
24 encumber the case development process or to impose unnecessary expenses and
25 burdens on other parties) may expose the Designating Party to sanctions.

26 If it comes to a Designating Party's attention that information or items that it
27 designated for protection do not qualify for protection, that Designating Party must
28 promptly notify all other Parties that it is withdrawing the inapplicable designation.

1 **B. Manner and Timing of Designations.**

2 Except as otherwise provided in this Order (*see, e.g.*, second paragraph of
3 section V.B(b) below), or as otherwise stipulated or ordered, Disclosure or
4 Discovery Material that qualifies for protection under this Order must be clearly so
5 designated before the material is disclosed or produced. Designation in conformity
6 with this Order requires:

7 (a) The Parties will treat all and any part of Tarhini's A-File as Protected
8 Material regardless of whether those parts have been marked with the legend
9 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"). The Producing
10 Party shall clearly identify information as constituting any part of Tarhini's A-File
11 when producing any part of Tarhini's A-File.

12 (b) For information in documentary form (e.g., paper or electronic
13 documents, but excluding transcripts of depositions or other pretrial or trial
14 proceedings), the Producing Party must affix at a minimum, the CONFIDENTIAL
15 legend to each page that contains protected material. If only a portion or portions
16 of the material on a page qualifies for protection, the Producing Party also must
17 clearly identify the protected portion(s) (e.g., by making appropriate markings in
18 the margins).

19 A Party or Non-Party that makes original documents available for inspection
20 need not designate them for protection until after the inspecting Party has indicated
21 which documents it would like copied and produced. During the inspection and
22 before the designation, all of the material made available for inspection shall be
23 deemed "CONFIDENTIAL." After the inspecting Party has identified the
24 documents it wants copied and produced, the Producing Party must determine
25 which documents, or portions thereof, qualify for protection under this Order.
26 Then, before producing the specified documents, the Producing Party must affix
27 the "CONFIDENTIAL legend" to each page that contains Protected Material. If
28 only a portion or portions of the material on a page qualifies for protection, the

1 Producing Party also must clearly identify the protected portion(s) (e.g., by making
2 appropriate markings in the margins).

3 (c) for testimony given in depositions that the Designating Party identify the
4 Disclosure or Discovery Material on the record, before the close of the deposition
5 all protected testimony.

6 (d) for information produced in some form other than documentary and for
7 any other tangible items, that the Producing Party affix in a prominent place on the
8 exterior of the container or containers in which the information is stored the legend
9 “CONFIDENTIAL.” If only a portion or portions of the information warrants
10 protection, the Producing Party, to the extent practicable, shall identify the
11 protected portion(s).

12 **C. Inadvertent Failures to Designate.**

13 If timely corrected, an inadvertent failure to designate qualified information
14 or items does not, standing alone, waive the Designating Party’s right to secure
15 protection under this Order for such material. Upon timely correction of a
16 designation, the Receiving Party must make reasonable efforts to assure that the
17 material is treated in accordance with the provisions of this Order.

18 **VI. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

19 **A. Timing of Challenges.**

20 Any Party or Non-Party may challenge a designation of confidentiality at
21 any time that is consistent with the Court’s Scheduling Order.

22 **B. Meet and Confer.**

23 The Challenging Party shall initiate the dispute resolution process under
24 Local Rule 37.1 et seq.

25 **C. Burden of persuasion.**

26 The burden of persuasion in any such challenge proceeding shall be on the
27 Designating Party. Frivolous challenges, and those made for an improper purpose
28 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may

1 expose the Challenging Party to sanctions. Unless the Designating Party has
 2 waived or withdrawn the confidentiality designation, all parties shall continue to
 3 afford the material in question the level of protection to which it is entitled under
 4 the Producing Party's designation until the Court rules on the challenge.

5 **VII. ACCESS TO AND USE OF PROTECTED MATERIAL**

6 **A. Basic Principles.**

7 A Receiving Party may use Protected Material that is disclosed or produced
 8 by another Party or by a Non-Party in connection with this Action only for
 9 prosecuting, defending, or attempting to settle this Action. Such Protected
 10 Material may be disclosed only to the categories of persons and under the
 11 conditions described in this Order. When the Action has been terminated, a
 12 Receiving Party must comply with the provisions of Section XIII below (FINAL
 13 DISPOSITION).

14 Protected Material must be stored and maintained by a Receiving Party at a
 15 location and in a secure manner that ensures that access is limited to the persons
 16 authorized under this Order.

17 **B. Production of A-File**

18 Defendants are authorized to produce Tarhini's A-File to Tarhini without
 19 obtaining prior written consent of Tarhini or of the third parties whose names,
 20 addresses, and other identifying information may be present in the A-File.

21 **C. Disclosure of "CONFIDENTIAL" Information or Items.**

22 Unless otherwise ordered by the court or permitted in writing by the
 23 Designating Party, disclosure of Protected Material by a Receiving Party may be
 24 made only to the following:

25 (a) the Receiving Party and the Receiving Party's Counsel of Record in this
 26 Action, as well as employees of said Counsel of Record to whom it is reasonably
 27 necessary to disclose the information for this Action;
 28

1 (b) the officers, directors, and employees (including Agency Counsel) of the
2 Receiving Party to whom disclosure is reasonably necessary for this Action;

3 (c) Experts (as defined in this Order) of the Receiving Party to whom
4 disclosure is reasonably necessary for this Action and who have signed the
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

6 (d) the court and its personnel;

7 (e) court reporters and their staff;

8 (f) professional jury or trial consultants, mock jurors, and Professional
9 Vendors to whom disclosure is reasonably necessary for this Action and who have
10 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (g) the author or recipient of a document containing the information or a
12 custodian or other person who otherwise possessed or knew the information;

13 (h) during their depositions, witnesses, and attorneys for witnesses, in the
14 Action to whom disclosure is reasonably necessary provided: (1) the deposing
15 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)
16 they will not be permitted to keep any confidential information unless they sign the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
18 agreed by the Designating Party or ordered by the court. Pages of transcribed
19 deposition testimony or exhibits to depositions that reveal Protected Material may
20 be separately bound by the court reporter and may not be disclosed to anyone
21 except as permitted under this Stipulated Protective Order; and

22 (i) any mediator or settlement officer, and their supporting personnel,
23 mutually agreed upon by any of the parties engaged in settlement discussions.

24 **VIII. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
25 **PRODUCED IN OTHER LITIGATION**

26 If a Party is served with a subpoena or a court order issued in other litigation
27 that compels disclosure of any information or items designated in this Action as
28 “CONFIDENTIAL,” that Party must:

1 (a) promptly notify in writing the Designating Party. Such notification shall
2 include a copy of the subpoena or court order;

3 (b) promptly notify in writing the party who caused the subpoena or order to
4 issue in the other litigation that some or all of the material covered by the subpoena
5 or order is subject to this Protective Order. Such notification shall include a copy
6 of this Stipulated Protective Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be pursued
8 by the Designating Party whose Protected Material may be affected.

9 If the Designating Party timely seeks a protective order, the Party served
10 with the subpoena or court order shall not produce any information designated in
11 this action as "CONFIDENTIAL" before a determination by the court from which
12 the subpoena or order issued, unless the Party has obtained the Designating Party's
13 permission. The Designating Party shall bear the burden and expense of seeking
14 protection in that court of its confidential material and nothing in these provisions
15 should be construed as authorizing or encouraging a Receiving Party in this Action
16 to disobey a lawful directive from another court.

17 **IX. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
18 **PRODUCED IN THIS LITIGATION**

19 (a) The terms of this Order are applicable to information produced by a Non-
20 Party in this Action and designated as "CONFIDENTIAL." Such information
21 produced by Non-Parties in connection with this litigation is protected by the
22 remedies and relief provided by this Order. Nothing in these provisions should be
23 construed as prohibiting a Non-Party from seeking additional protections.

24 (b) In the event that a Party is required, by a valid discovery request, to
25 produce a Non-Party's confidential information in its possession, and the Party is
26 subject to an agreement with the Non-Party not to produce the Non-Party's
27 confidential information, then the Party shall:
28

1 (1) promptly notify in writing the Requesting Party and the Non-Party
 2 that some or all of the information requested is subject to a confidentiality
 3 agreement with a Non-Party;

4 (2) promptly provide the Non-Party with a copy of the Stipulated
 5 Protective Order in this Action, the relevant discovery request(s), and a
 6 reasonably specific description of the information requested; and

7 (3) make the information requested available for inspection by the
 8 Non-Party, if requested.

9 (c) If the Non-Party fails to seek a protective order from this Court within 14
 10 days of receiving the notice and accompanying information, the Receiving Party
 11 may produce the Non-Party's confidential information responsive to the discovery
 12 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 13 not produce any information in its possession or control that is subject to the
 14 confidentiality agreement with the Non-Party before a determination by the court.
 15 Absent a court order to the contrary, the Non-Party shall bear the burden and
 16 expense of seeking protection in this court of its Protected Material.

17 **X. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

18 If a Receiving Party learns that, by inadvertence or otherwise, it has
 19 disclosed Protected Material to any person or in any circumstance not authorized
 20 under this Stipulated Protective Order, the Receiving Party must immediately (a)
 21 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
 22 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
 23 the person or persons to whom unauthorized disclosures were made of all the terms
 24 of this Order, and (d) request such person or persons to execute the
 25 "Acknowledgment and Agreement to Be Bound" attached hereto as Exhibit A.
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 28

**XI. INADVERTENT PRODUCTION OF PRIVILEGED OR
OTHERWISE PROTECTED MATERIAL**

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

XII. MISCELLANEOUS

A. Right to Further Relief.

Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

B. Right to Assert Other Objections.

By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

C. Filing Protected Material.

A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the

1 court, then the Receiving Party may file the information in the public record unless
2 otherwise instructed by the court.

3 **XIII. FINAL DISPOSITION**

4 After the final disposition of this Action, as defined in Section IV, within 60
5 days of a written request by the Designating Party, each Receiving Party must
6 return all Protected Material to the Producing Party or destroy such material. As
7 used in this subdivision, "all Protected Material" includes all copies, abstracts,
8 compilations, summaries, and any other format reproducing or capturing any of the
9 Protected Material. Whether the Protected Material is returned or destroyed, the
10 Receiving Party must submit a written certification to the Producing Party (and, if
11 not the same person or entity, to the Designating Party) by the 60 day deadline that
12 (1) identifies (by category, where appropriate) all the Protected Material that was
13 returned or destroyed and (2) affirms that the Receiving Party has not retained any
14 copies, abstracts, compilations, summaries or any other format reproducing or
15 capturing any of the Protected Material. Notwithstanding this provision, Counsel
16 are entitled to retain an archival copy of all pleadings, motion papers, trial,
17 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
18 and trial exhibits, expert reports, attorney work product, and consultant and expert
19 work product, even if such materials contain Protected Material. Any such
20 archival copies that contain or constitute Protected Material remain subject to this
21 Protective Order as set forth in Section IV (DURATION).

22 **XIV. SANCTIONS.**

23 Any violation of this Order may be punished by any and all appropriate
24 measures including, without limitation, contempt proceedings and/or monetary
25 sanctions.
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27
28

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: June 16, 2016

3
4 s/ Beth Sarla Persky

5 BETH SARLA PERSKY

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21 ATTORNEYS FOR DEFENDANTS

22 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

23 DATED: _____

26
27 HONORABLE ALKA SAGAR

28 United States Magistrate Judge

EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, _____ [print or type full name], of
 _____ [print or type full address], declare
 under penalty of perjury that I have read in its entirety and understand the
 Stipulated Protective Order that was issued by the United States District Court for
 the Central District of California on _____ [date] in the case of *Tarhini v.*
Curda et al, Civil Action No. 2:15-cv-06131-DSF-AS (C.D. Cal.). I agree to
 comply with and to be bound by all the terms of this Stipulated Protective Order
 and I understand and acknowledge that failure to so comply could expose me to
 sanctions and punishment in the nature of contempt. I solemnly promise that I will
 not disclose in any manner any information or item that is subject to this Stipulated
 Protective Order to any person or entity except in strict compliance with the
 provisions of this Order. I further agree to submit to the jurisdiction of the United
 States District Court for the Central District of California for the purpose of
 enforcing the terms of this Stipulated Protective Order, even if such enforcement
 proceedings occur after termination of this action. I hereby appoint
 _____ [print or type full name] of
 _____ [print or type full
 address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this
 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed on June 16, 2016, through the ECF system, and that it will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: June 16, 2016

/s/ C. Frederick Sheffield

C. FREDERICK SHEFFIELD

Trial Attorney

United States Department of Justice

Civil Division

Office of Immigration Litigation

District Court Section

ATTORNEY FOR DEFENDANTS